

DEPARTMENT OF STATE REVENUE

04960366.LOF

LETTER OF FINDINGS NUMBER: 96-0366 RST

**Sales And Use Tax
For The Period: 1992**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales/Use Tax - Mower in Agricultural Operation

Authority: IC 6-2.5-5-1; IC 6-2.5-5-2; 45 IAC 2.2-5-4

The taxpayer protests the imposition of sales and use tax on a mower blade used in his agricultural operation.

STATEMENT OF FACTS

On September 1, 1992, the taxpayer purchased a DM 160 disc mower from a farm machinery equipment store. The taxpayer filled out an agricultural exemption certificate and did not pay sales tax. In addition, the taxpayer did not self-assess use tax on the purchase.

The taxpayer was requested by mail to furnish proof of exempt use. The taxpayer submitted a response that detailed the use of the equipment and also supplied a copy of his federal form Schedule F - Profit or Loss from Farming.

The taxpayer states that everything mowed with this disc mower was baled for hay. The baled hay was used to feed his livestock on his agricultural operation. The taxpayer states that sometimes, though all hay is intended for feeding, the animals are not capable of eating all of the hay. When there is excess, the taxpayer spreads the remainder in the pasture. The Department determined that the taxpayer qualified for a fifty percent (50%) exemption for using the item to cut hay for livestock feeding, which qualifies for the agricultural exemption under Indiana regulation 45 IAC 2.2-5-4. The auditor did not state in the investigative report in what non-exempt manner the taxpayer used the disc mower to only warrant a fifty percent (50%) exemption. The taxpayer disputes this and seeks the full exemption for the purchase.

I. Sales/Use Tax - Agricultural Exemption - Mower

DISCUSSION

IC 6-2.5-5-1 contains an exemption for certain materials used in agricultural production:

Transactions involving animals, feed, seed, plants, fertilizer, insecticides, fungicides, and other tangible personal property are exempt from the state gross retail tax if:

- (1) the person acquiring the property acquires it for his direct use in the direct production of food or commodities for sale or for further use in the production of food or commodities for sale, and
- (2) the person acquiring the property is occupationally engaged in the production of food or commodities which he sells for human or animal consumption or uses for further food or commodity production.

IC 6-2.5-5-2(a) further states:

Transactions involving agricultural machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for his direct use in the direct production, extraction, harvesting, or processing of agricultural commodities.

Also, the Indiana Administrative Code recognizes in 45 IAC 2.2-2-5-6(d)(1):

Feed - Sales of agricultural machinery, tools, and equipment used by the purchaser directly in feeding exempt animals, poultry, etc., are exempt from tax. This exemption does not extend to machinery, equipment, and tools used for the handling, movement, transportation, or storage of feed prior to the actual feeding process.

As stated before, the investigative auditor gave a fifty percent (50%) exemption to the taxpayer for using the mower to cut the hay for consumption by farm animals. By doing so, the auditor determined the mower was partially used in the process of producing food for live animals. After cutting, the hay is baled and placed in the field for consumption by the animals.

The farmer states the disc mower is only used for cutting the hay. In support of this he has supplied the Department with photographs of the equipment. As the photographs show, the disc mower is not an ordinary piece of equipment. Due to its large size, it could only be used for mowing in a large field for cutting hay and not for private non-exempt use. The Department is satisfied that the mower qualifies for the one hundred percent (100%) agricultural exemption.

FINDING

The taxpayer's protest is sustained. The taxpayer is entitled to the agricultural exemption.